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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,204	03/19/2007	Sakae Okazaki	450100-05490	7323
7590 03/24/2009				
William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			EXAMINER DANIELS, ANTHONY J	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 03/24/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/591,204

**Applicant(s)**

OKAZAKI ET AL.

**Examiner**

ANTHONY J. DANIELS

**Art Unit**

2622

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 7 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The preamble of claim 7 recites a program per se. The USPTO recognizes a program as non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohkawara et al. (US 2001/0048479).

As to claim 1, Ohkawara et al. teaches an autofocus-control device (Figure 5) including a focus lens (Figure 5, focus-compensation lens “105”) and an image-pickup sensor (Figure 5, CCD “106”), the autofocus-control device comprising: image-pickup means which picks up an

image of a subject in a cycle that is  $(1/\text{integer } N)$  times a cycle of an image-vertical-synchronization signal in synchronization with the cycle of the image-vertical-synchronization signal ([0093]; Figure 21; *{The examiner interprets integer N as 1; meaning, 1 image cycle is performed per vertical-synchronization signal.}*), calculation means (Figure 5, AF evaluation value processing circuit "114") which calculates a focus-evaluation value for performing an autofocus on the basis of a signal of the image picked up by the image-pickup means ([0076] and [0077]), and change means (Figure 5, AF microcomputer "115") which changes a distance between the focus lens and the image-pickup sensor on the basis of a plurality of the focus-evaluation values calculated by the calculation means ([0077], Lines 1-12), wherein the change means changes the distance so that integer-A times of the cycle of the image-vertical-synchronization signal and integer-B times of a wobbling cycle are synchronized with each other when integer A and integer B satisfy  $2 \times B > A$  ([0093]; Figure 21; *{According to passage [0093], the focus control is synchronized with the vertical synchronization interval. The focus control routine of Figure 21 clearly shows wobbling performed at step 701. Let us assume that during 1 vertical synchronization cycle (making A = 1), wobbling is performed B times where B is any integer 1 or greater. For the sake of argument, let us assume wobbling is performed 2 times, making B = 2.  $2 \times B > A$  is satisfied ( $2 \times 2 > 1$ ;  $4 > 1$ ).}*).

As to claim 2, Ohkawara et al. teaches an autofocus-control device according to claim 1, wherein the calculation means calculates the focus-evaluation value on the basis of a high-frequency component of a brightness signal of the image-pickup signal ([0076]).

As to claim 3, Ohkawara et al. teaches an autofocus-control device according to claim 1, further comprising merge means which merges a plurality of the signals of a plurality of the images picked up by the image-pickup means ([0074], Lines 1-4).

As to claim 5, claim 5 is a method claim corresponding to the apparatus claim 1. Therefore, claim 5 is analyzed and rejected as previously discussed with respect to claim 1.

As to claim 6 and 7, in light of the disclosure of a system controller of Figure 5 controlling the focus and zooming routines of Ohkawara et al., claims 6 and 7 are rejected as previously discussed with respect to claim 1.

### *Claim Rejections - 35 USC § 103*

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkawara et al. (US 2001/0048479) in view of Voss et al. (7,193,647).

As to claim 4, Ohkawara et al. teaches an autofocus-control device according to claim 1. The claim differs from Ohkawara et al. in that it further requires selection means which selects any one of a plurality of the signals of a plurality of the images picked up by the image-pickup means.

In the same field of endeavor, Voss et al. teaches an imaging apparatus including a photosensor array which outputs a video stream. A user utilizing the imaging apparatus can operate a shutter button to select a still image frame from the video stream and store the still image frame in memory (Figure 2; Col. 5, Lines 1-9). In light of the teaching of Voss et al., it would have been obvious to one of ordinary skill in the art to include the operation of Voss et al. in the camera of Ohkawara et al., because an artisan of ordinary skill in the art would recognize that this would allow the user to acquire a video sequence and a desired still image without having to switch modes and lose the desired still image (see Voss et al., Col. 1, Lines 45-52).

### ***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. DANIELS whose telephone number is (571)272-7362. The examiner can normally be reached on 8:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AD  
3/19/2009

/Sinh N Tran/  
Supervisory Patent Examiner, Art Unit 2622